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and JESUS CANAS

UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ERIKA CANAS, JOSE CANAS, a minor, by
and through his guardian ad litem, and JESUS
CANAS, by and through his guardian ad litem,

Plaintiffs,
vs.

CITY OF SUNNYVALE, CHRIS SEARLE,
DARREN PANG and DOES ONE through
TWENTY-FIVE,

Defendants.

Case No.: C08-05771 JF (PVT)

**JOINTLY SUBMITTED INITIAL CASE
MANAGEMENT STATEMENT UNDER
RULE 26(F) AND CIVIL LOCAL RULE 16-9**

Date: June 24, 2011
Time: 10:30 am
Honorable Jeremy Fogel

Pursuant to Federal Rule of Civil Procedure 26(f) and Civil Local Rule 16-9, plaintiffs ERIKA CANAS, JOSE CANAS, a minor, and JESUS CANAS, a minor, both through their guardian ad litem, and defendants CITY OF SUNNYVALE, CHRIS SEARLE and DARREN PANG jointly submit the following initial Case Management Statement to the Court.

1. Status of the Case

The parties held an initial Early Neutral Evaluation (hereinafter "ENE") on October 6, 2009. The parties and evaluator agreed that the parties should exchange further discovery and hold a second session. Defendants provided to plaintiffs and the evaluator Sunnyvale Police's investigation file regarding the matter, which includes police reports, forensic lab reports, audio, video, photographs, witness statements and the personnel files of the involved officers. Confidential materials were produced pursuant to a protective order. In addition, the police incident report and supplemental reports for the underlying murder investigation of Pablo Rosales were provided. Originally, the further ENE was scheduled for November 20, 2009, however, this date was continued due to a scheduling conflict, to February 11, 2010. The parties have now conducted the ENE which did not resolve the case. The case is at issue after defendant's motion to dismiss; only the two individual defendants remain with dismissal of the *Monell* claims against the City of Sunnyvale. The parties are now prepared to set a discovery and motion for summary judgment schedule and trial date.

Plaintiffs are now represented by new co-counsel Russell Robinson.

2. Discovery

Plaintiffs provided Rule 26 Initial Disclosures to defendants on September 25, 2009. Defendants provided Rule 26 Initial Disclosures to plaintiffs on September 3, 2009. Defendants provided Supplemental Rule 26 Disclosures on October 23, 2009. As noted Defendants have provided additional materials submitted to plaintiffs as part of informal discovery and ENE preparation. Both parties reserved the right to propound supplemental Rule 26 Disclosures.

The parties have not undertaken any formal discovery to date. The scope of anticipated discovery is to be framed by the allegations in the pleadings. At this time, there are no proposed revisions or modifications to the rules of discovery. The defendants believe that discovery should be phased with limited and focused discovery that will be completed in a time frame to facilitate the

1 filing of a motion for summary judgment.

2 Plaintiffs oppose limiting discovery.

3 The maximum number of discovery permitted in total to each side shall be:

- 4 • 10 depositions per side. This does not include expert discovery.
- 5 • Defendants proposed 30 interrogatories per side. Plaintiffs request to be permitted to
- 6 propound 30 interrogatories on each named defendant. Plaintiffs request 30 requests
- 7 for production and 30 requests for admission as to each named party.
- 8 • Defendants request 30 requests for production of documents per side.
- 9 • Defendants request 20 requests for admissions per side

10 Defendants anticipate taking the deposition of plaintiff Erika Canas.

11 Plaintiffs anticipate the depositions of each named individual defendant, and several other
12 members of the Sunnyvale Department of Public Safety, including supervisory employees, eye-
13 witnesses, and investigating officers.

14 Third-party depositions may also be taken.

15 **4. Motions**

16 The parties also anticipate that the defendants will file a motion for summary judgment on the
17 issues of liability and qualified immunity. Defendants will also move to bifurcate the damages part
18 of the case until after liability is resolved.

19 Plaintiffs oppose bifurcation. The issues of liability and damages are so intertwined that
20 bifurcation would consume undue time and resources.

21 **5. Amendments of Pleadings**

22 This case is at issue.

23 **6. Scheduling**

24 Proposed dates for:

- 25 A. Non-Expert Discovery cutoff: March 2012
- 26 B. Designation of experts May 2012
- 27 C. Hearing of dispositive motions: May 2012
- 28 D. Expert Discovery cutoff: June 2012

1 E. Final Pretrial conference: July 2012

2 F. Trial: September 10, 2012

3 **18. Trial**

4 This case will be tried to a jury and is expected to last five (5) to ten (10) court days.

5 Dated: June 20, 2010

LAW OFFICES OF RUSSELL A. ROBINSON

7 By: /s/
8 Russell A. Robinson, Attorney for Plaintiffs

9 Dated: June 20, 2010

BERTRAND, FOX & ELLIOT

11 By: /s/
12 Gregory M. Fox
13 Attorneys for Defendants
14 CITY OF SUNNYVALE, CHRIS SEARLE and
DARREN PANG

15 **ATTORNEY ATTESTATION**

16 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
17 conformed signature ("/s/") within this E-filed document.

18 Dated: June 20, 2010

19 /s/
20 Gregory M. Fox